

Attachment

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1232 (TPJ)

STATE OF NEW YORK *ex rel.*
Attorney General DENNIS C. VACCO, *et al.*,

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1233 (TPJ)

PLAINTIFFS' SIXTH JOINT REQUEST FOR PRODUCTION OF DOCUMENTS

Plaintiff the United States and plaintiff States hereby request, pursuant to Rule 34 of the Federal Rules of Civil Procedure, that defendant Microsoft Corporation produce for inspection and copying the following documents in its possession, custody or control, on October 20, 1998

at 9:00 a.m. at Microsoft's Offices in Redmond, Washington, or at such place(s) and time as may be mutually agreed by the parties.

DEFINITIONS

1. "Actions" means *United States v. Microsoft Corporation*, Civil Action No. 98-1232 (TPJ), and *State of New York ex rel. Attorney General Dennis C. Vacco, et al., v. Microsoft Corporation*, Civil Action No. 98-1233 (TPJ).
2. "And" and "or" are intended to have both conjunctive and disjunctive meanings.
3. "Document" has the broadest meaning accorded to it by Rule 34 of the Federal Rules of Civil Procedure, and includes but is not limited to all of the matters defined in Rule 1001 of the Federal Rules of Evidence. It also includes each computer file and written, recorded, and graphic material of every kind in the possession, custody or control of Microsoft, electronic correspondence and drafts of documents, electronic mail messages, copies of documents that are not identical duplicates of the originals, and copies of documents the originals of which are not in the possession, custody or control of Microsoft. The term "computer files" includes information stored in, or accessible through, computer or other information retrieval systems. Unless otherwise specified, the term "document" excludes bills of lading, invoices, purchase orders, customs declarations, and other similar documents of a purely transactional nature and also excludes architectural plans and engineering blueprints.
4. "ICP" means any Internet Content Provider that creates World Wide Web content viewable by Internet browser product users in the United States.
5. "ISP" means any Internet Service Provider, including any Online Service Provider, providing service to customers in the United States.

6. "ISV" means any producer of any software product for sale or licensing to customers in the United States.

7. "Investigations" means the United States' and/or any State's investigations of Microsoft's agreements with OEMs, ISPs, ICPs, and any other persons concerning the installation, licensing, distribution, marketing, or promotion of Internet Explorer.

8. "Microsoft" means Microsoft Corporation, each of its predecessors, successors, parents, divisions, subsidiaries, and affiliates, each other person or entity directly or indirectly, wholly or in part, owned or controlled by it, each partnership or joint venture to which any of them is a party, and all present and former officers, directors, employees, agents, consultants, or other persons acting for or on behalf of any of them.

9. "Microsoft operating system product" means each commercially released version of Windows 95, Windows 98, any 16-bit Windows operating system, MS-DOS, and Windows NT Workstation.

10. "OEM" means any manufacturer of personal or notebook computers for sale to customers in the United States.

11. "Person" means any natural person, corporation, firm, company, sole proprietorship, partnership, joint venture, association, institute, or other business, legal, or governmental entity.

12. "Relating to" means discussing, describing, referring to, reflecting, containing, analyzing, studying, reporting on, commenting on, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

13. "Third Party" means any person other than the United States, any State, Microsoft, or any officer, director, employee, agent, consultant, or other person acting for or on behalf thereof.

INSTRUCTIONS

1. If documents responsive to this Request previously have been submitted to the Antitrust Division or any of the plaintiff States and have not been returned by the Division or those States (or destroyed at your direction or pursuant to judicial order), you need not re-produce such documents. Please identify all documents previously produced, including the date of submission and the document control number or other identification of where in that submission the documents can be found.

2. All drafts and non-identical copies of responsive documents should be produced.

3. For each document or portion thereof withheld under a claim of privilege, submit a sworn or certified statement from Microsoft's counsel or one of Microsoft's officers identifying the withheld document by author, addressee, date, number of pages, subject matter, and document control number; specifying the nature and basis of the claimed privilege and the paragraph of this Request to which the withheld material is responsive; and identifying each person to whom the withheld material was sent and each person to whom the withheld material or its contents, or any part thereof, was disclosed. Denote all attorneys identified with an asterisk.

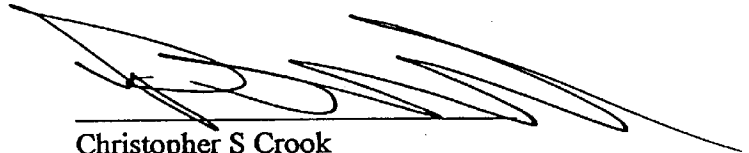
4. This Request shall be deemed continuing as provided in the Federal Rules of Civil Procedure, so as to require further and supplemental production if additional documents called for by this Request are obtained or created by Microsoft between the time of the Request

and the time of trial.

REQUEST

1. All data contained in or other contents of Microsoft's "MS Sales" or "OEM Query" databases relating to any Microsoft Windows operating systems product (excluding Windows NT) or to Internet Explorer, regardless of the "field" or "channel" in the database by which such data is organized (and including but not limited to the "finished goods" and "online" channels), including but not limited to data relating to license terms, distribution, sales, number of units shipped, royalties paid, sales forecasts, revenue, or costs, for the time period January 1, 1990 to present.

DATED: October 19, 1998



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Chief

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U.S. Department of Justice

Antitrust Division

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